

State of New Mexico
LEGISLATIVE EDUCATION STUDY COMMITTEE

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December 12, 2007

MEMORANDUM

TO: Legislative Education Study Committee

FR: Peter van Moorsel *PvM*

**RE: WRITTEN REPORT: STUDY LOCAL SCHOOL BOARD HIRING
POLICIES, HM 51**

In 2007, the Legislature passed House Memorial (HM) 51, which requested that, the Public Education Department (PED):

- study the hiring policies and practices of local school boards in the state to determine what works and what does not;
- determine the cost of contract buyouts during school year 2006-2007;
- examine the contract duration options that are available under current law;
- identify the ethical, constitutional or legal issues, if any, that are raised when local school board members offer a multiyear employment contract to an incumbent superintendent before they leave office in a school election year;
- study and recommend options to change laws regarding the relieving, hiring, terminating, and disciplining of superintendents; and
- report its findings and recommendations to the Legislative Education Study Committee by November 1, 2007.

In response to the memorial, PED has submitted the attached report. The report indicates that to perform the requested study, PED, with the assistance of the New Mexico School Boards Association, issued a survey to the board presidents of all 89 school districts. PED lists the 14 districts that responded to the survey on page 4 of the report, and reports that only one of these districts reported spending funds on buying out a superintendent's contract at a cost of \$26,666.67, which covered a four to five month period.

The report notes that because of PED's rule requiring the Secretary of Education to pre-approve all buy-outs before any funds are paid to an administrator, PED is aware of all amounts paid by districts, and the number of administrators whose contracts were bought out. For school years 2004-2005, 2005-2006, and 2006-2007, the amount of funds spent on buy-outs was \$782,835 for 12 administrator contracts, averaging to \$260,945 per year, and \$65,236 per administrator contract (see page 4 of the report). PED adds that of these buy-outs, two were principals, one was a charter school administrator, and the remaining nine were district superintendents.

Pages four and five of the report include a synopsis of the survey responses that were received regarding the length of contracts into which districts enter with superintendents. PED reports that the majority of districts that responded supported a multi-year contract for superintendents, citing the need for long-term stability and continuity in the district. PED also states that the "most eye-opening" indication from the survey responses is that there is no uniform policy for the selection of superintendents by local school boards or for the length of contracts with superintendents. In fact, three responding districts indicated that they do not have a written policy for the hiring of superintendents.

The report concludes that, though the *School Personnel Act* permits school administrator contracts to span from one to three years, mandating a two-year contract may be beneficial because long lead times needed to recruit, hire, and replace superintendents might mean that a one-year term would be impractical. Also, the report addresses the issue of outgoing board members hiring or renewing the contract of a superintendent for multiple years. PED notes that any attempt to restrict a board's ability to hire or renew the contract of a superintendent might be perceived as interfering with local school district politics.

PED does not support any new legislation in this area during the 30-day session. However, future legislation might include:

- requiring local boards to adopt written hiring policies that must be followed;
- requiring hiring policies to have a clearly articulated vetting process for attracting and hiring the best qualified candidates for superintendent who are duly licensed, have their references checked and pass an FBI fingerprint background check prior to assuming any duties;
- amending the *School Personnel Act* in the area of administrator contracts to state that districts' failure to substantially conform their administrators' contracts to the PED form could result in cancellation of or obligation to amend those contracts, or the mandatory reimbursement of amounts paid to administrators that do not conform;
- requiring local school boards to hold and document that they held at least two conferences with their superintendent to discuss any unsatisfactory work performance and attempts at improvement; and
- requiring local school boards to consider assigning other meaningful duties to superintendents at the same rate of pay instead of buying out their contracts.



**New Mexico
Public Education Department**

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**House Memorial 51 of 2007
Report by
Public Education Department**

LESC
December 2007

Dr. Veronica C. García
Secretary of Education

DON D. MOYA
DEPUTY CABINET SECRETARY
Finance And Operations

DR. CATHERINE CROSS MAPLE
DEPUTY CABINET SECRETARY
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DR. VERONICA C. GARCÍA
SECRETARY OF EDUCATION

BILL RICHARDSON
Governor

December 4, 2007

MEMORANDUM

TO: Legislative Education Study Committee,

THRU: Veronica C. García, Ed.D.
Secretary of Education
Public Education Department

FROM: Willie R. Brown *WRB*
General Counsel
Public Education Department

RE: **HOUSE MEMORIAL 51 STUDY ON SCHOOL BOARDS' HIRING POLICIES AND PRACTICES**

BACKGROUND:

With the passage of House Bill 212, enacting the comprehensive 2003 educational reforms, new provisions were added to the Public School Code [Sections 22-5-4 and 22-5-14, NMSA 1978] that limited the hiring authority of school boards from hiring all district employees to just hiring superintendents; also, the 2003 reforms clarified the role of the district superintendent to that of the "chief executive officer" of the district.¹ Thus, this arrangement created the opportunity for superintendents to possess the sole authority over who was hired as an employee of a school district. If a board disagreed with its superintendent's hiring choices, the board could vote to not-renew their superintendent's contract; in more drastic situations, they could discharge their superintendent if they

¹Section 22-5-4(B) was amended to specifically provide that one of the powers and duties of a school board is to "employ a local superintendent for the school district and fix the superintendent's salary." Section 22-5-14(A), (B) was amended to provide that "The local superintendent is the chief executive officer of the school district. . .[and shall] employ, fix the salaries of, assign, terminate or discharge *all employees of the school district.*" (emphasis added)

could establish grounds; lastly, they could place their superintendent on paid leave and seek to “buy-out” their superintendent’s contract.

During the 2007 Regular Session, House Memorial 51 was introduced by Representative Ray Begaye, a member of the Legislative Education Study Committee (“LESC”). (see **Attachment 1**) The House Memorial passed by a vote of 60 – 0.

There does not appear to be one precipitating factor that led to this memorial.² Rather, there is a perception that a few school boards have embarked on a course of action in which they have given generous settlements to school superintendents—with public school funds—in order to buy out the remaining term of their school administrator contracts. As part of the perceived problem, outgoing board members have hastily hired a new school superintendent under multi-year contracts which at times have resulted in the need to replace these superintendents before the conclusion of their terms. When this occurs, that is, replacing a superintendent, a local board must “buy-out” the departing superintendent’s contract while at the same time paying the salary of an interim or replacement superintendent. Some districts have never gone through this scenario while others have gone through it more than once. District difficulties with their school superintendents have resulted in some highly publicized events that have polarized their local communities. HM 51 seeks to look at the practices employed by school districts both in hiring and ending their employment relationships with their superintendents.

JUSTIFICATION STATED IN HOUSE MEMORIAL 77 FOR A STUDY:

HM 51 provides the following reasons for its issuance:

1. that local school boards have made superintendent hiring decisions that have resulted in the actual or perceived need to end those employments;
2. that some recent superintendent hiring decisions have resulted in termination of those employments and have led to litigation;
3. that some recent superintendent hiring decisions have resulted in termination of those employments and have led to costly buyouts of the remainder of lengthy and lucrative contracts; and
4. concerns over fiscal responsibility, board member ethics, the methods by which boards find and select candidates for superintendent and the use of multiyear contracts instead of single-year contracts.

SCOPE OF STUDY STATED IN HOUSE MEMORIAL 51:

²The Fiscal Impact Report for HM51 dated 2/27/2007, mentioned “a significant fiscal impact on school districts” attributable to “a number of superintendents statewide” who were “relieved of duties prior to the end of their contracts”. Specifically, Las Cruces Public Schools was mentioned in the FIR as having “relieved a number of superintendents”. The current superintendent of this district was himself the object of a successful “buy-out” by his former district.

The memorial resolves that the Public Education Department (PED) study:

1. the hiring policies and practices of local school boards in the state to determine what works and what does not;
2. the cost of contract buyouts during the 2006-2007 school year;
3. the contract duration options that are available under current law;
4. the ethical, constitutional or legal issues, if any, that are raised when local school board members offer a multi-year employment contract to an incumbent superintendent before they leave office in a school election year; and
5. recommend options to change laws regarding the relieving, hiring, terminating and disciplining of superintendents and local school board members.

METHODOLOGY USED TO GATHER THE DATA FOR THE STUDY:

With the assistance of the New Mexico School Boards Association, the PED issued a survey to all 89 school districts. (see **Attachment 2**) Over half of the surveys were mailed to the board presidents of those districts whose board presidents did not have internet access. The board presidents of other districts were able to access the survey using SuveryMonkey.com. (see **Attachment 3**) The survey asked ten (10) straightforward questions in an effort to gather data for the study

APPLICABLE LAWS AND RULES:

School Personnel Act

The School Personnel Act ("Act") [22-10A-1 to 22-10A-39, NMSA 1978], at Section 22-10A-21, permits school administrators to be employed under contracts for a period not to exceed three years. With very few exceptions, all licensed employees must be under contract for at least a one-year period. Additionally, all administrators' contracts must be in writing on forms approved by the PED. The PED has such a form, which is contained in PED Rule 6.66.3 New Mexico Administrative Code. (see **Attachment 3**) That rule requires school administrators' contracts to substantially conform to the PED model rule.³ Unlike tenured teachers who acquire tenure by remaining at the same district for at least three years and then have a right to continued employment unless there is just cause to terminate them, a school administrator has no right to continued employment. In 1982 in the case of *Alamogordo Public Schools vs. Lyman Jennings* (the then-superintendent), the Court of Appeals determined that Section 22-10-1, NMSA 1978 [now 22-10A-21, NMSA 1978] is not a *mandatory* rule;

³It should be noted that not all school districts comply with this rule. While the scope of the instant memorial did not focus on the wording of administrators' contracts, the PED is aware of several instances of school district contracts containing costly perks to attract and keep administrators employed at various districts. Such perks have included a computer with on-line access for use at the administrator's house, an allowance for monthly luncheons and other entertainment uses, a pre-paid retirement annuity, a generous out of state travel allowance, monetary incentives for meeting various objectives not always tied to performance (e.g., fund-raising), and a monthly allowance for car payments. Whether these perks implicate, if not violate the anti-donation clause to the New Mexico Constitution [Art. IX, Sec. 14 N.M. Const.] is a question worth considering since an argument could be made that besides a salary and health/workers' compensation insurance, such perks do not constitute bargained for compensation for services rendered.

instead, it is *directory* because the Legislature did not prescribe the result that would follow if a contract is not on a form approved by the State Board of Education.

FINDINGS:

Of the 89 districts surveyed, only 14 districts responded, which represents 16% of the total districts. None of the three largest districts responded to the survey. The districts that responded were:

Aztec Municipal Schools
Carrizozo Municipal Schools
Clovis Municipal Schools
Estancia Municipal Schools
Farmington School District
Grady Municipal Schools
Hatch Valley Public Schools

Maxwell Municipal Schools
Melrose Public Schools
Mora Independent Schools
Rio Rancho Public Schools
Springer Municipal Schools
Vaughn Municipal Schools
West Las Vegas Public Schools

Only one of the 14 responding districts reported funds spent in buying out the contract of its superintendent at a cost of \$26,666.67, which covered a 4 to 5 month period. Because the PED's rule requires the Secretary of Education to pre-approve all buy-outs before any funds are paid to an administrator, the PED is aware of all amounts paid by districts, even those that did not respond to the survey. The following spreadsheet contains all non-reported buy-out amounts in addition to the one amount that was reported during the instant survey.

ADMINISTRATOR BUY-OUT AMOUNTS FOR THE PAST THREE SCHOOL YEARS

Total Amount paid in SY2004-2005	Total Amount paid in SY2005-2006	Total Amount paid in SY2006-2007
\$209,955	\$223,875 ⁴	\$349,005
Number of Administrators in buy-out	Number of Administrators in buy-out	Number of Administrators in buy-out
3	3	6

The total buy-outs for all of the above-listed school years is \$782,835. This amount averages to \$260,945 per year.

From the surveys received, the following information was submitted by districts on their preference of the duration of administrators' contracts:

Of the 14 districts that responded to the survey, three currently use one year contracts. The remaining districts use multi-year contracts with seven districts indicating that they currently use 2-year contracts. One district indicated that they prefer one year contracts, but after 2 successful years with the current superintendent, they offered another 2 year contract to the superintendent. By contrast, one district responded that they currently use a two year contract with their current superintendent, but would

⁴One of the buy-outs during School Year 2005-2006 involved a charter school administrator. This is the only buy-out of a charter school administrator the PED has ever been asked to approve.

probably not offer a multi year contract to a new superintendent “until after they had been with the district for a period of time.”

The majority of substantive comments that were made by the responding school districts supported a multi-year contract for superintendents. Eight of the districts cited the need for long-term stability and continuity in the district as a justification for multi-year contracts for superintendents. It was noted by one district that such stability may be necessary in small school districts. Some districts stated that an atmosphere of confidence in the community and the school district is necessary and this is brought about through multi-year contracts with superintendents.

Another district commented that even with a multi-year contract, ongoing and formal yearly evaluations will allow the school board to have some control in addressing issues that may arise with the superintendent. This is a valid point that is worth exploring. Under Section 22-10A-30 of the School Personnel Act, districts are required to comply with PED rules for “correcting unsatisfactory work performance of certified school instructors before notice of intent to discharge is served upon them...” While most administrator buy-outs occur outside of the context of a pending administrative notice to discharge, the commenting district is correct in observing the value of periodic performance evaluations during which performance measures are assessed *in writing* by the employing school board.

Although three districts indicated that they use a one year contract, and two school districts indicated that they use multi-year contracts but would prefer a one year contract, only one district commented substantively against the use of multi-year contracts. That district stated that multi-year contracts are “a means for boards to control a political scene resulting in little or no success to the district.” Perhaps, speculated this district, the use of “at-will” contracts for superintendents should be considered because at-will contracts “will result in a determination on the part of a superintendent to do their very best all the time, and not only towards end of contracts.”

Perhaps most eye-opening from the survey is that there is no uniform policy on the selection of superintendents by local boards or on the length of contracts with superintendents. In fact, three responding districts indicated that they do not have a written policy for the hiring of superintendents.

The PED experience with administrators’ contracts derives from the recurring need to examine these contracts when a district seeks to buy-out their administrator’s contract. Most of these contracts are at least two years in duration while some are for three years.

CONCLUSION:

Although HM 51 focused on only one school year, the PED actually looked at three-years of data. Numerically, the study shows that in the past three school years, a total of 12 administrators have had their contracts bought out by their local school board. Of those 12 administrators, two were principals and one was a charter school head administrator. The remaining 9 administrators were district superintendents. Broken down by school year, School Year 2004-2005 saw three administrator buy-outs; School Year 2005-2006 also saw three administrator buy-outs; School Year 2006-2007 saw six administrator buy-outs. The total amount of administrator buy-outs for those three school years was

\$782,835, which averaged to \$260,945 per year. These are not staggering figures given the relatively few districts that were involved given, as the departing superintendents' legal counsel frequently informed the PED, what could happen if the districts did not settle and were successfully sued by those superintendents. Still, there is always room for improvement in minimizing the financial risk to districts.

As was demonstrated above, the current law permits superintendent contracts to span from a low of 1 year to a high of 3 years. It appears the average contract term reported was two years. Arguments can be made to support mandating either one year or multi years. However, because of the long lead times needed to recruit, hire and replace superintendents, in larger districts where the sheer number of students and faculty provide distinct challenges, it would appear that a one year contract is not very practical. That would leave either a 2 or 3 year contract. Mandating a 2-year model might be the way to go; however, it would have been helpful to have heard from the 3 or 4 largest districts who would be most affected if the duration of administrator contracts were statutorily reduced to no more than 2 years.

As to the "ethics" of outgoing board members hiring or renewing the contract of a superintendent for multiple years, none of the districts who have engaged in this practice responded to the PED's survey. Moreover, it is quite possible that board members who actually voted in such multi year contracts are no longer with those districts. One way to address this "temptation" is to statutorily restrict a board from hiring/renewing a superintendent 90 days prior to that district's board elections. However, this might have unintended consequences as where a superintendent departs a district at the end of a calendar year—prior to the typical August termination of their contract. Moreover, a board could still get around this limitation by hiring/renewing a superintendent 91 days or 100 days before their next board election. Any attempt to restrict a board's unfettered ability to hire/renew their superintendent might be perceived as interfering with the local politics of school districts.

The PED does not support any new legislation in this area during the upcoming 30-day session. However, future legislation might include: requiring local board's to adopt written hiring policies that must be followed; requiring hiring policies to have a clearly articulated vetting process for attracting and hiring the best qualified candidates for superintendent who are duly licensed, have their references checked and pass an FBI fingerprint background check prior to assuming any duties; amending the School Personnel Act in the area of administrator contracts to state that failure to substantially conform their administrators' contracts to the PED form could result in cancellation of or obligation to amend those contracts, or the mandatory reimbursement of amounts paid to administrators that do not conform; requiring local boards to hold and document the holding of at least two conferences with their superintendent to discuss any unsatisfactory work performance and attempts at improvement; and the requirement for local boards to consider assigning other meaningful duties to superintendents at the same rate of pay instead of buying out their contracts when things don't seem to work out.

VCG:wb

Enclosures: Four (4)

A MEMORIAL

REQUESTING THAT THE PUBLIC EDUCATION DEPARTMENT STUDY THE
HIRING POLICIES AND PRACTICES OF LOCAL SCHOOL BOARDS.

WHEREAS, public school reforms enacted in 2003 limited
the employment duties of local school boards to
superintendents; and

WHEREAS, public school reforms enacted in 2003 expanded
the employment duties of superintendents to include all
district employees, whether licensed or unlicensed; and

WHEREAS, parents, teachers and other stakeholders in a
school district have a vested interest in the board members
whom they elect to office; and

WHEREAS, parents, teachers and other stakeholders in a
school district have a vested interest in the superintendent
who is hired by the local school board; and

WHEREAS, hundreds of thousands, if not millions, of
public education dollars are expended each year to pay the
salaries, benefits and other contractual perquisites of
district superintendents; and

WHEREAS, in recent years, local school boards have made
superintendent hiring decisions that have resulted in the
actual or perceived need to end those employments; and

WHEREAS, some of the recent superintendent hiring
decisions that have resulted in termination of those

employments have led to litigation; and

WHEREAS, some of the recent superintendent hiring decisions that have resulted in termination of those employments have led to costly buyouts of the remainder of lengthy and lucrative contracts; and

WHEREAS, some of these recent issues between superintendents and their local school boards have raised concerns over fiscal responsibility, board member ethics, the methods by which boards find and select candidates for superintendent and the use of multiyear contracts instead of single-year contracts;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the public education department be requested to study the hiring policies and practices of local school boards in the state to determine what works and what does not; and

BE IT FURTHER RESOLVED that the department determine the cost of contract buyouts during the 2006-2007 school year; and

BE IT FURTHER RESOLVED that the department examine the contract duration options that are available under current law; and

BE IT FURTHER RESOLVED that the department identify the ethical, constitutional or legal issues, if any, that are raised when local school board members offer a multiyear employment contract to an incumbent superintendent before they

leave office in a school election year; and

BE IT FURTHER RESOLVED that the department study and recommend options to change laws regarding the relieving, hiring, terminating and disciplining of superintendents and local school board members; and

BE IT FURTHER RESOLVED that the department report its findings and recommendations to the legislative education study committee no later than November 1, 2007; and

BE IT FURTHER RESOLVED that a copy of this memorial be transmitted to the secretary of public education.



ATTACHMENT 2

STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
300 DON GASPAR
SANTA FE, NEW MEXICO 87501-2786
Telephone (505) 827-5800
www.ped.state.nm.us

DR. VERONICA C. GARCÍA
SECRETARY OF EDUCATION

BILL RICHARDSON
Governor

September 25, 2007

Greetings Board Presidents:

The 2007 Regular Legislative Session saw the adoption of House Memorial 51, introduced by Representative Ray Begaye and passed by a vote of 60 to 0. HM 51 explores the hiring practices of school boards of superintendents in the context of the dollar amount of "buy outs," the fiscal soundness of signing multi-year contracts, the renewal of superintendent contracts in an election year, and the procedures used to recruit new superintendents. Obviously, the Legislature is concerned on many levels of the departure of superintendents before the conclusion of their contract terms.

The Public Education Department must report its findings from the study as well as its recommendations for any changes in law to the Legislative Education Study Committee. Please submit your survey by October 17, 2007. Because of that, we highly encourage your candid input. House Memorial 51 can be reviewed at the following link:

<http://legis.state.nm.us/Sessions/07%20Regular/final/HM051.pdf>

Reminder: please complete this survey by October 17, 2007.

Send To:

Dr. Sheila Hyde, Director, Quality Assurance Bureau
Rm. 201
New Mexico Public Education Department
300 Don Gaspar
Santa Fe, NM 87501
Phone: 505-827-4275

House Memorial 51 Survey

1. Name of your district: _____
2. Attach your district's current recruitment and hiring procedures and policies for superintendents.
3. How can those hiring policies be accessed? Check all that apply.
 - ☐ Policies can be accessed via our District's website.
 - ☐ Policies are available on soft copy and can be emailed.
 - ☐ Policies are available on soft copy and can be emailed.
 - ☐ Contact person to obtain policies: _____
4. Describe the reasons that you are using multi-year contracts for superintendents and indicate whether you use a 2 or a 3 year contract.

5. Has your district had a superintendent "buy-out" in the last 3 school years?
 - ☐ No
 - ☐ Yes
6. If "yes", what was the total dollar amount of the "buy-out"?

7. If "yes" what was the total number of months covered in the "buy-out"?

8. If "yes", did the "buy-out" occur during a board election year?

☐ **No**☐ **Yes**

9. Describe any disciplinary actions or options other than a "buy-out" that were considered.

a. _____

b. _____

C. _____

10. What changes, if any, were made to your district's hiring practices and/or policies after a "buy-out" decision was made?

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

*** Please be sure to attach your district's current recruitment and hiring procedures and policies for superintendents. (see question 2)**

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[Log Off](#)[Home](#)[Create Survey](#)[My Surveys](#)[Address Book](#)[My Account](#)[Help Center](#)You have a **basic account**.To remove the limits of a basic account, including unlimited questions, [upgrade now!](#)

survey title:

House Memorial 51 [Edit Title](#)[design survey](#)[collect responses](#)[analyze results](#)[Edit Survey](#)[Survey Options](#)[Print Survey](#)[Restore Questions](#)

Edit Survey

[Preview Survey](#)To change the **look** of your survey, select a theme below.

Desert Dunes

[New Theme](#)[Add Page Before](#)**Page #1**[Edit Page](#)[Copy](#)

1. House Memorial 51 Survey

Greetings Board Presidents:

The 2007 Regular Legislative Session saw the adoption of House Memorial 51, introduced by Representative Ray Begaye and passed by a vote of 60 to 0. HM 51 explores the hiring practices of school boards of superintendents in the context of the dollar amount of "buy outs," the fiscal soundness of signing multi-year contracts, the renewal of superintendent contracts in an election year, and the procedures used to recruit new superintendents. Obviously, the Legislature is concerned on many levels of the departure of superintendents before the conclusion of their contract terms.

The Public Education Department must report its findings from the study as well as its recommendations for any changes in law to the Legislative Education Study Committee. Please submit your survey by October 17, 2007. Because of that, we highly encourage your candid input. House Memorial 51 can be reviewed at the following link:

<http://legis.state.nm.us/Sessions/07%20Regular/final/HM051.pdf>

Reminder: please complete this survey by October 17, 2007.

[Add Question Here](#)[Edit Question](#)[Move](#)[Copy](#)[Delete](#)*** 1** Name of your district

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*** 2. Describe your district's current recruitment and hiring procedures and policies for superintendents.**

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Add Logic

*** 3. How can those hiring policies be accessed? Check all that apply.**

Policies can be accessed via our District's website.

Policies are available on soft copy and can be emailed.

Policies are available on a hard copy only.

Contact person to obtain policies

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*** 4. Describe the reasons that you are using multi-year contracts for superintendents and indicate whether you use a 2 or a 3 year contract.**

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Add Logic

*** 5. Has your district had a superintendent "buy-out" in the last 3 school years?**

No

Yes

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6. If "yes", what was the total dollar amount of the "buy-out"?

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7. If "yes", what was the total number of months covered in "buy-out"?

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8. If "yes", did the "buy-out" occur during a board election year?

No

Yes

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9. Describe any disciplinary actions or options other than a "buy-out" that were considered.

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10. What changes, if any, were made to your district's hiring practices and/or policies after a "buy-out" decision was made?

Add Question Here

Add Page After

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ATTACHMENT 4

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 66 SCHOOL PERSONNEL - CONTRACTS
PART 3 LICENSED SCHOOL ADMINISTRATOR CONTRACT

6.66.3.1 ISSUING AGENCY: Public Education Department
[09-30-97, 07-30-99; 6.66.3.1 NMAC - Rn, 6 NMAC 4.3.2.1, 12-29-00; A, 10-31-06]

6.66.3.2 SCOPE: This rule applies to local school boards, charter schools, and licensed school administrators.
[09-30-97; 6.66.3.2 NMAC - Rn, 6 NMAC 4.3.2.2, 12-29-00; A, 10-31-06]

6.66.3.3 STATUTORY AUTHORITY: This rule is adopted pursuant to Sections 22-2-1, and 22-10A-21 NMSA 1978.
[09-30-97; 6.66.3.3 NMAC - Rn, 6 NMAC 4.3.2.3, 12-29-00; A, 10-31-06]

6.66.3.4 DURATION: Permanent
[09-30-97; 6.66.3.4 NMAC - Rn, 6 NMAC 4.3.2.4, 12-29-00]

6.66.3.5 EFFECTIVE DATE: May 30, 1998, unless a different date is cited at the end of a section.
[09-30-97, 05-30-98; 6.66.3.5 NMAC - Rn, 6 NMAC 4.3.2.5, 12-29-00]

6.66.3.6 OBJECTIVE: To provide local school boards and charter schools with a form employment contract approved by the public education department for licensed school administrators in accordance with the requirements of Section 22-10A-21, supra.
[09-30-97; 6.66.3.6 NMAC - Rn, 6 NMAC 4.3.2.6, 12-29-00; A, 10-31-06]

6.66.3.7 DEFINITIONS:
A. "Department" means the public education department (PED).
B. "Local school board" or "board" means the governing body of a school district or charter school.
C. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.
[09-30-97; 6.66.3.7 NMAC - Rn, 6 NMAC 4.3.2.7, 12-29-00; A, 10-31-06]

6.66.3.8 REQUIREMENTS:
A. All administrator contracts shall be uniform and shall substantially conform to the model set forth below, with proper names being inserted where generic description are currently found. As used herein, "substantially conform" means that all administrative contracts shall at a minimum contain the following caption, terms, and signatories, and be subject to appropriate editing and word insertion in place of the blanks:

(1) (caption) The board of education of _____, New Mexico, herein called board, and _____, herein called administrator, agree:

(2) (term) The administrator shall be employed by the board for a period beginning _____, _____, and ending _____, _____, as _____ of the school district, county of _____, New Mexico.

(3) (term) The administrator shall during the term of his (her) employment faithfully perform the duties pertaining to his (her) position, administer the duties assigned by the superintendent of the school district, and abide by the rules and regulations of the department and local board of education.

(4) (term) This contract and the parties hereto are and shall continue to be subject to applicable laws of the state of New Mexico and the rules and regulations of the department and local board of education as they may exist. This contract may be canceled by the board for cause, including unsatisfactory work performance, incompetence, insubordination, physical or mental inability to perform the required duties or for any other good and just cause, provided, that any such cancellation may be effected only in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education.

(5) (term) This contract may also be canceled by the board for cause not personal to the administrator when a reduction in personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or

federal government for the performance of this contract, in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education, provided there is no other position for which the administrator is qualified, consistent with the academic necessities of the district.

(6) (term) The administrator shall give the board thirty (30) calendar days written notice of intention to resign. Failure to give such thirty (30) calendar day notice shall entitle the board, in its discretion, to file a written complaint with the secretary requesting suspension or revocation of the administrator's license.

(7) (term) The administrator shall furnish the board the following: (a) a valid license for the position to be held; (b) an official transcript showing the education record and training of the administrator, (c) suitable evidence of date of birth; (d) such health certificates as may be required by law; and (e) any other documents as may be required by law. Failure to furnish any of the foregoing items at the required time may result in cancellation of this contract in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education.

(8) (term) The administrator shall be entitled to _____ working days per year as annual leave with pay. Unused annual leave may be accumulated to a total of not more than _____ working days, but upon cancellation of this contract, no payment shall be made for more than _____ days of unused annual leave. The administrator shall be entitled to sick leave with pay for a total of not more than _____ working days per year. Unused sick leave may be accumulated to a total of not more than _____ working days.

(9) (term) Subject to the provisions of the applicable approved budget, the administrator shall, during the term hereof, receive a salary of \$ _____ per year, payable in _____ installments, less required or authorized deductions. The first installment shall be due and payable on _____.

(10) (term) In the event that the administrator is employed on a two (2) year contract, Paragraph 9 of Subsection A of Section 6.66.3.8 NMAC herein may be amended in the second year to reflect any appropriate district salary adjustment factors. The board may, but shall not be required to, increase prospectively, but not retroactively, the salary for any school year governed by the terms of this contract if revenues are available to the school district for that school year. Any increase is subject to budgetary approval by the department. Notwithstanding the above, the board shall further have the authority, for any school year governed by the terms of this contract and for which a salary increase is mandated if the school district meets conditions as specified by the legislature of New Mexico, to implement salary adjustments during the school year in accordance with a salary schedule adopted by the board in accordance with the legislative guidelines for that year. Any adjustment is subject to budgetary approval by the department. Additionally, the board shall have authority to implement any salary increases or other adjustments to benefits and compensation provided by the legislature of New Mexico.

(11) (signatories) BOARD OF EDUCATION OF _____ New Mexico BY:

President _____ Date of Execution _____

Secretary _____ Date of Execution _____

Administrator _____ Date of Execution _____.

B. No administrator contract, including any amendment or addendum, shall be signed, entered into, or executed that permits the payment of monies, dividends, differentials, bonuses, incentives, salary, wages, or renewal inducements where the payment is neither tied nor traceable to services actually rendered.

C. No administrator contract, including any amendment or addendum, shall be signed, entered into, or executed that has not first been properly noticed and voted on openly at a public meeting held pursuant to the Open Meetings Act (10-15-1 to 10-15-4, NMSA 1978).

D. Compliance with this section shall be subject to periodic review by the department.

E. The department may take such action it deems necessary depending on the degree of noncompliance with this rule, including but not limited to, notifying the state auditor or other appropriate authorities, directing the district to cease and desist, directing the district to collect any improperly spent public funds, or imposing a budgetary codicil.

[09-30-97, 05-30-98; 6.66.3.8 NMAC - Rn, 6 NMAC 4.3.2.8, 12-29-00; A, 08-15-03; A, 10-31-06]

HISTORY OF 6.66.3 NMAC:

PRE-NMAC HISTORY: The material in this regulation was derived from that previously filed with the State Records Center and Archives under: State Board of Education Regulation No. 70-23, School Administrator Contract, filed January 14, 1971; State Board of Education Regulation No. 72-27, School Administrator Contract, filed January 8, 1973; Amendment 1 to State Board of Education Regulation No. 72-27, School Administrator Contract, filed November 18, 1977; State Board of Education Regulation 88-2, School Administrator Contract, filed February 2, 1988; Amendment 1 to State Board of Education Regulation No. 88-2, School Administrator Contract, filed April 3, 1992.